



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,515	01/31/2002	Majid Zia	1-14873	3658

1678 7590 03/09/2006  
MARSHALL & MELHORN  
FOUR SEAGATE, EIGHT FLOOR  
TOLEDO, OH 43604

EXAMINER

BRINSON, PATRICK F

ART UNIT PAPER NUMBER

3754

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,515

Applicant(s)

ZIA ET AL.

Examiner

Patrick F. Brinson

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period; for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15,20-25,31-41,49,50,52 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) 26-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15,21-25,35-41,49,50,52 and 54-58 is/are rejected.
- 7) ☒ Claim(s) 31-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the means for holding a piece of tubing in the support member comprising the channel having at least a semi-circular cross section, i.e, semi-circular or greater, but then state with adhesive being used if the cross section is not of a greater than semi-circular cross section. This is indefinite because there would not be a time when the cross-section is not of a greater than semi-circular, since the channel has previously been recited as being at least semi-circular.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-23, 25 and 35-41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,916,199 to **Miles**.

The patent to **Miles** discloses a tubing device comprising a tube support, figs. 2 and 2A, comprising a curvilinear channel (60) disposed therein for receiving a piece of tubing (20) and means for holding the piece of tubing in the channel wherein the tube support comprises a first portion (50) and a second portion (52), with the first and second portions being connected by a hinge, as recited in claim 20. Each of the first and second portions include a channel, the channels aligned to form a cylindrical channel to hold the tubing therein, as recited in claims 21-23. The channel in the first portion has a greater than semi-circular cross-section and the channel in the second has a less than semi-circular cross-section, as recited in claim 25. The method of its use can be obtained, including the steps of providing a piece of flexible tubing having smooth interior walls, the tubing comprising a single piece having no adhesive on the interior surface, providing a support device (10) for the flexible tubing, the support device configured to prevent flow constriction areas from forming in the flexible tubing and transporting fluid for medical application through the flexible tubing, as recited in claim 37.

3. Claims 49, 50, 52 and 56-58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,890,684 to **Stewart et al.**

The patent to **Stewart et al.** discloses a tubing apparatus comprising a support member, wherein the support member is a solid rectangular block (12), at least two

parallel channels (30, 34) through the solid rectangular block for retaining tubing and structure, including third opening (38) and bolt (40) to support the weight of the tubing apparatus without substantially deforming the tubing retained by the support member, as recited in claims 49 and 50. The third opening (38) is perpendicular to the two channels, as recited in claim 52. It is disclosed that the block is formed of aluminum, and therefore can be rigid, as well as semi-rigid, as recited in claims 57 and 58.

4. Claims 54 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 6,311,936 to **Herr et al.**

The patent to **Herr et al.** discloses a flexible support member, fig. 8, (60), which has a pair of channels formed proximate the ends of the flexible support member, as recited in claim 54, and fig. 9 discloses structure to support the weight of the tubing apparatus (66) comprises a curved portion (64) of the flexible support member between the two channels, as recited in claim 55.

### ***Response to Amendment***

5. Applicant argues in regard to claim 37 that the preamble helps to determine the scope of the patent claim, and therefore because of the arguments and amendments

to claim 37 the rejection with the Riffle reference has been withdrawn. The patent to **Miles** discloses a tube supporting device used to support an intravenous tubing, and thus discloses the step of transporting fluid for a medical application. Likewise **Miles** discloses the apparatus recited in claims that were previously indicated as being allowable, claims 20-25 and 36. Applicant argues that the **Hwang** reference discloses a block that is not solid. The rejection has been withdrawn and the rejection has been made with the **Stewart et al.** reference which discloses a solid block having two channels through which cables, tubings, etc. may be inserted and an opening perpendicular to the to channels which allow for the support of the block by the insertion of a bolt.

#### ***Allowable Subject Matter***

6. Claim 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
7. Claims 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to McConnell, Scott, Gautsche, and Yokoyama et

al. are all pertinent to Applicant's invention in disclosing devices to support intravenous tubing. The patent to Menshen discloses a rectangular block including channels to support cylindrical devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patrick F. Brinson  
Primary Examiner  
Art Unit 3754

Application/Control Number: 10/066,515  
Art Unit: 3754

Page 7

P. F. Brinson  
March 2, 2006